IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

MFA.No. 1037 of 1996()

WCC.221/1994 of W.C.C.,KOZHIKODE
.....

APPELLANT:

UNITED INDIA INSURANCE CO.LTD
REP.BY ITS MANAGER
REGIONAL OFFICE, SHARANYA
HOSPITAL ROAD, COCHIN -11

BY ADV. SRI.D.S.WARRIER
SRI.SREELAL N.WARRIER

RESPONDENTS:
----
1. **PANANGADAN MOOSSA, S/O AYAMMU**
PANANGADAN HOUSE, MANKADA AMSOM
KOOTTIL DESOM, P.O. KOOTTIL
MALAPPURAM DISTRICT

2. **P.KUNHACHU, W/O MOOSSA, DO -**

3. **THE PROJECT MANAGER, BHAGEERATHA**
ENGINEERING COMPANY LTD
SHIRWAD P.O., KARWAR DISTRICT
KARNATAKA (DELETED)

Respondent No.3 is deleted from the party array at the risk of the petitioner vide order dated 30/11/2007 in I.A.No.2861/07

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S.RADHAKRISHNAN & T.R.RAMACHANDRAN NAIR, JJ.

M.F.A.No.1037 OF 1996

Dated this the 10th day of December, 2007

JUDGMENT

Radhakrishnan, J.

Appeal is preferred by the Insurance company against the order passed by the Commissioner for Workmen's compensation. It is submitted that Commissioner has committed error in applying the Workmen Compensation Act 1923 and passed the order in violation of the provisions of the Act treating the amendment of section 4 and 4A of the Workmen Compensation Act vide amendment Act 30 of 1995 as retrospective. Counsel for the appellant places reliance on the decision the Full Bench reported in **United India Insurance Co.Ltd v. Alavi** (1998(1)KLT 951 FB) and submitted that since accident had occurred prior to the date of amendment, Amendment Act would not apply. We find force in the contention of the appellant. The amount has therefore to be calculated on the basis of the unamended Act. Claimant will therefore be only entitled to a sum of Rs. 89,600/-. Since the deceased was 20 years of age the factor applied is 224. His monthly income has to be taken at Rs. 1000/-. If that be so,

he will be entitled to a sum of Rs. 89600/- (Rupees eighty nine thousand six hundred) which would carry interest at the rate of 12% from the date of petition till the date of payment. The order of the Commissioner is modified accordingly.

K.S.RADHAKRISHNAN
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

sv.